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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,443	06/21/2001	Uwe Hardtke	225/50037	2731

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EXAMINER

EDMONDSON, LYNNE RENEE

ART UNIT PAPER NUMBER

1725

9

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/885,443

Applicant(s)

HARDTKE, UWE

Examiner

Lynne Edmondson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6, 9-12 is/are rejected.
- 7) ☒ Claim(s) 2, 4, 7 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/21/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## **DETAILED ACTION**

### ***Specification***

1. The use of the trademark "Tox clinching" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 teaches the method of "Tox" clinching which is registered trademark. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1, 3, 9 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Buldhaupt et al. (USPN 6419146 B1).

Buldhaupt teaches a method of producing a reinforced hollow section with a continuous periphery (envelope or pack 110) wherein an opening is formed and a reinforcing plate (insert) is inserted into the opening such that it projects into the opening (col 9 line 51 – col 10 line 21 and figure 16). The reinforcing plate comprises a flanged portion (126) which is bent and partially overlaps the edge of the opening. The edges are flush with the interior wall of the hollow body forming a U-shaped section and bonded or welded (figure 16 and col 2 lines 54-67). Welding may be performed in a variety of ways including seam welding and beam welding (col 7 lines 54-67 and col 10 lines 40-48). The inserts serve as reinforcements to allow attachments without crushing the structure (col 13 lines 10-27).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulze (USPN 6134767).

Schulze teaches a method of producing a reinforced, hydroformed hollow section with a continuous periphery (col 3 line 65 – col 4 line 23 and col 5 lines 1-67) wherein openings are formed by piercing (col 4 lines 13-22 and col 6 lines 1-8) and reinforcing members (14,34,50) are inserted into the opening such they project into the opening. The reinforcing members may be any shape including plates (flanges, col 4 line 64 – col 8 line 20 comprises a flanged portion (27) which is bent and partially overlaps the edge of the opening. The edges are flush with the interior wall of the hollow body forming a U-shaped section and welded (figure 1, col 8 lines 32-67 and col 9 lines 12-29). Welding may be performed in a variety of ways including beam welding and projection welding (col 2 lines 52-61). Beads are employed and forced into the plate (col 7 lines 45-63). However there is no disclosure of a continuous closed periphery.

It would have been obvious to one of ordinary skill in the art at the time of the invention that the process is the same for an open or closed structure as the interior is hollow in both cases. Although the insert is taught as plug rather than a plate it serves the same function which is to increase loading capacity and thereby reinforce the structure in a simple and cost-effective manner (Schulze, col 7 line 64 – col 8 line 20).

***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 3 and 9-12 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

7. Claim 5 is allowed.

8. The following is an examiner's statement of reasons for allowance: Schulze (USPN 6134767) teaches the invention essentially as claimed but does not teach the electrode and punch in the same tool. Projection welding methods conventionally teach a separate punching tool and electrode. See VanOtteren et al. (USPN 6281466 B1) and Watanabe (USPN 5872348).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

9. Claims 2, 4, 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: The prior art teaches the invention essentially as claimed but does not teach

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joining the insert by plug welding or projection welding. Projection and plug welding methods are not conventionally used on hollow members. See VanOtteren et al. (USPN 6281466 B1) and Watanabe (USPN 5872348). Neither is a stamped bead taught. See Wycech (USPN 4769391). Buldhaupt (USPN 6419146 B1) teaches hole forming through the insert on opposite sides but does not teach opposed holes through which inserts are placed.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schwochert (USPN 4342799, molded reinforcement), Hall (USPN 6296330 B1, open periphery, no hole forming step), Sanda et al. (USPN 5106031), Turek (USPN 5432989), Haffer (USPN 4640078), Longo et al. (USPN 5988734, hydroforming and welding), Kim (USPN 5457929, overlapping flange and slots), Wu (USPN 5984563, Tox clinching), Ghiran et al. (USPN 6305201 B1, hydroforming and piercing) and Tox Pressotechnik website.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Edmondson whose telephone number is (703) 306-5699. The examiner can normally be reached on M-F from 7-4 with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on (703) 308-3318. The fax phone numbers for

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the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-7115 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

Lynne Edmondson  
Examiner  
Art Unit 1725

 3/13/03

LRE  
March 13, 2003